

DECEMBER 7, 1993

In failing to respond to certain interrogatories, AT&T objected to the interrogatories as "not likely to lead to the discovery of evidence relevant to the issues in this proceeding."

In a few instances, AT&T also objected to responding to the Interrogatory on the ground that it was "burdensome." In its Motion to Compel, Horry submits that each of its interrogatories requests "information relevant to AT&T's ability to compete with Horry's Area Calling Plan." As part of its argument, Horry cites 26 S.C. Code Ann. Reg. 103-851(A) which states that "any material relevant to the subject matter involved in the proceeding may be discovered unless the material is privileged or is hearing preparation working papers prepared for the pending proceeding." Citing Rule 26(b)(1) SCRPC, AT&T argues that the disputed interrogatories are not "reasonably calculated to lead to admissible evidence." AT&T also objects to certain Interrogatories requesting information regarding AT&T's costs, revenues, expenses, and operations saying that the issues of this case do not involve the financial health of AT&T.

The Commission recognizes that the scope of discovery is generally recognized to be quite broad. Evidence which tends to establish or to make more or less probable some matter in issue and to bear directly or indirectly thereon is "relevant." Associate Management, Inc. v. E.D. Sauls Construction Co., 279 S.C. 219, 305 S.E. 2d 236 (1983). The Commission is also aware that discoverable evidence may not necessarily be admissible evidence. Rule 26(b)(1) allows that information which may be inadmissible at trial to be discoverable "if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

The Commission has considered Horry's Motion to Compel, AT&T's Response, and the individual Interrogatories in dispute, and finds

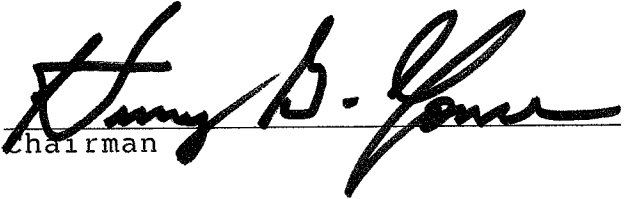
that Horry's Motion to Compel should be granted in part and denied in part. The Commission concludes that the Interrogatories 9, 10, 11, 12, 13, 17, 19, 24, 25, and 28 are relevant to these proceedings and that it is reasonably calculated that the answers to these interrogatories will result in admissible evidence or lead to the discovery of admissible evidence. Therefore, the Commission grants the Motion to Compel as to the Interrogatories set out above. The Commission also concludes that AT&T should not be required to answer Interrogatories 8, 14, 15, 16, 18, 21, 22, 23, 26, and 27, as these Interrogatories do not appear to be relevant to these proceedings, and the Commission does not believe that the answers to these Interrogatories would lead to the discovery of admissible evidence. The Commission also denies the Motion to Compel as to Interrogatory 29 as AT&T has made the information available to Horry if Horry desires to avail itself to the information requested.

IT IS THEREFORE ORDERED THAT:

1. The Motion to Compel is granted with regard to Interrogatories 9, 10, 11, 12, 13, 17, 19, 24, 25, and 28 and is denied as to the other Interrogatories.
2. AT&T shall expeditiously respond to the Interrogatories due to the imminent hearing date of December 15, 1993.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)